

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: INFORMATION TECHNOLOGY

AGENDA DATE: SEPTEMBER 30, 2008

CONTACT PERSON/PHONE: GERALD GORDIER (915) 541-4288

DISTRICT(S) AFFECTED: TERRENCE FREIBURG, PURCHASING MANAGER, 541-4313
ALL

SUBJECT:

Request that the Director of Purchasing be authorized to issue a Purchase Order to Oracle Corporation in the amount of \$102,131.52. Oracle Corporation a State Department of Information Resources (DIR) contractor under DIR State Contract DIR-VPC-03-018 for Oracle DataBase Enterprise technical support and services. Participation by the City of El Paso in the DIR Program was approved by Mayor and Council on February 27, 2007.

BACKGROUND / DISCUSSION:

This purchase order will cover from September 15, 2008 – September 14, 2009. This is for software maintenance on technology that has been used to support existing applications for several years. It has been budgeted each year.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

Yes, this is an annual expenditure for technical support and services for this software.

AMOUNT AND SOURCE OF FUNDING:

\$102,131.52. Funding is available in FY09 Information Technology General Fund:
502202-01101-39010351 (Data Processing Services Contracts).

BOARD / COMMISSION ACTION: Enter appropriate comments or N/A

NA/

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD: 

(Example: if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

FINANCIAL SERVICES, PURCHASING DIVISION

DATE: SEPTEMBER 17, 2008

TO: Municipal Clerk

FROM: Terrence Freiburg

Ray Heredia

FINANCIAL SERVICES,
PURCHASING DIVISION

PROCUREMENT ANALYST

Please place the following item on the Regular Agenda for the Council Meeting of SEPTEMBER 30, 2008.

Item should read as follows: That the Purchasing Manager be authorized to issue a Purchase Order to Oracle Corporation in the amount of \$102,131.52 Oracle Corporation a State Department of Information Resources (DIR) contractor under DIR State Contract DIR-VPC-03-018) for Oracle DataBase Enterprise technical support and services. Participation by the City of El Paso in the DIR Program was approved by Mayor and Council on February 27, 2007.

Award amount is \$102,131.52

Funds available in: 39010351-502202-01101

Fund Source - Information Services, Data Processing Contracts, Operating Account.

Department: Information Technology

SPECIAL INSTRUCTIONS: _____

City Clerk's Use

ITEM NO. _____

**AMENDMENT NUMBER 5 to
CONTRACT DIR-VPC-03-018 between
the State of Texas, acting by and through the Department of Information
Resources
and Oracle Corporation**

This Amendment Number 5 to Contract DIR-VPC-03-018 ("Contract") is between the State of Texas, acting by and through the Department of Information Resources ("DIR") and Oracle Corporation ("Vendor"). DIR and Vendor agree to modify the terms and conditions of the Contract as follows:

1. **Contract, Section 2, Contract Term** is hereby amended as follows:
The term of this Contract is hereby extended through September 30, 2008. Prior to this expiration date the parties may renew this Contract through April 20, 2010, completing the final renewal option.
2. All other terms and conditions of the Contract, not specifically modified herein, shall remain in full force and effect. In the event of conflict among the provisions, the order of precedence shall be Amendment Number 5, Amendment Number 4, Amendment Number 3, Amendment Number 2, Amendment Number 1 and then the Contract.

IN WITNESS WHEREOF, the parties hereby execute this Amendment to be effective as of August 31, 2008.

Oracle Corporation

**The State of Texas, acting by and
through
the Department of Information
Resources**

Authorized By: signature on file

Authorized By: signature on file

Name: Thomas Murray, Jr

Name: Cindy Reed

Title: Senior Contracts Manager

Title: Deputy Executive Director, Operations
& Statewide Technology Sourcing

Date: 8/29/08

Date: 8/27/08

Legal: Cynthia Kreider, 8/27/08

**STATE OF TEXAS
DEPARTMENT OF INFORMATION RESOURCES
VOLUME PRICING CONTRACT
Oracle Corporation**

This **VOLUME PRICING CONTRACT** for the acquisition of Oracle Corporation products and related services is entered into between the State of Texas, acting by and through the Department of Information Resources (DIR) with its principal place of business at 300 West 15th Street, Suite 1300, Austin, Texas 78701, and Oracle Corporation ("Oracle"), with its principal place of business at 500 Oracle Parkway, Redwood City, California 94065-1677.

WITNESSETH

WHEREAS, DIR and Oracle entered into a Master Agreement, Software License and Services Agreement, effective March 7, 2000 (hereinafter referred to as "Master Agreement 2000"),

WHEREAS, Master Agreement 2000 was subsequently modified on March 7, 2000 (known as Amendment 1), modified on May 12, 2000 (known as Amendment 2) and was modified on November 20, 2001 (known as Amendment 3), until an expiration date of March 7, 2003, and;

WHEREAS, DIR and Oracle establish this document, DIR-VPC-03-018, known as Master Agreement 2003, to be a centralized, statewide contract between the parties as the aforesaid "new contract" to replace the Master Agreement 2000;

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained, the parties agree as follows:

1. CONTRACT SCOPE

This contract ("Master Agreement 2003") sets forth the terms and conditions governing the Oracle's provision of software technology to Authorized Users, as defined herein, of this Master Agreement 2003 under licenses of Programs available in production release, and includes documentation, maintenance and incidental professional services and training services related thereto. Such Programs and services shall be delivered and/or licensed by Oracle during the contract term in accordance with the rights, obligations and pricing set forth herein.

Notwithstanding any other provision or other unilateral license terms which may be issued by Oracle after the Effective Date of this Master Agreement 2003, and irrespective of whether any such provisions have been proposed prior to or after the issuance of a Order Form for products licensed under this Master Agreement 2003, the terms and conditions set forth in this Master Agreement 2003 shall supersede and govern the contract terms between Authorized Users and Oracle, except that with respect to Technical Support renewals, the governing terms and conditions shall be those contained in the agreement then in place between DIR and Oracle.

2. CONTRACT TERM

The term of this Master Agreement 2003 shall be five (5) years commencing on the date that the last signature is affixed hereto (the primary term). The parties may mutually agree to renew the Master Agreement 2003, upon approval of the DIR and Oracle, upon expiration of the primary term for an additional two (2) year term. The extension, if agreed to, shall be documented as an amendment to the Master Agreement 2003 and be executed at least thirty (30) days prior to the end of the primary term. Upon expiration or termination of the Master Agreement 2003, all rights and obligations set forth herein shall survive in accordance with their terms for procurements made or individual licenses granted to

Authorized Users prior to such termination.

3. MERGER OF APPENDICES/ORDER OF PRECEDENCE:

This Master Agreement 2003 shall be deemed inclusive of the following documents which shall be incorporated herein as if set forth at length:

- Appendix A – Standard Clauses for Texas Contracts
- Appendix B – Global Price List
- Appendix C – Price List Supplement
- Appendix D – Migration Matrix
- Appendix E – Sample Order Form
- Appendix F – Professional Services Rates
- Appendix G – Professional Services Order Forms
- Appendix H– Learning Credits Rates

To the extent that such Appendices furnished by Oracle include inconsistent terms, such terms and conditions shall be of no force and effect as between the parties. In the event that there are conflicts among this Master Agreement 2003 and its Appendices and an Order Form issued hereunder, this Master Agreement shall take precedence, except as expressly agreed to by the Authorized User and Oracle.

4. DEFINITIONS:

All terms used in this Agreement shall be given their usual meaning unless provided with a definition as set forth below.

a. Where licenses are defined herein as "perpetual", it is expressly understood that such license rights shall exist in perpetuity unless otherwise terminated in accordance with the applicable provisions of the Master Agreement 2003.

b. ADMINISTRATIVE FEE The fee used to defray DIR's cost of negotiating, executing and administering this Master Agreement 2003.

c. AUTHORIZED USERS any Texas state agency and local government as defined in Section 2054.003, Texas Government Code (including institutions of higher education as defined in Texas Education Code, Section 61.003), and those state agencies purchasing from a DIR contract through an Interagency Agreement, as authorized by Chapter 771, Texas Government Code.

d. ATTORNEY GENERAL the Attorney General of the State of Texas.

e. COMPTROLLER Comptroller of Public Accounts of the State of Texas.

f. DAY shall mean eight (8) hour business days, Monday through Friday, except for State and Federal holidays. If the Master Agreement 2003 calls for performance on a day that is not a business day, then performance is intended to occur on the next business day.

g. DIR The Department of Information Resources, a state agency of the state of Texas, authorized to contract for the provision of Information Resource Technologies as set forth in Chapter 2054, Texas Government Code, and includes its successors.

h. DOCUMENTATION The complete set of user guides and manuals for use of the Licensed Programs generally made available by Oracle to its customers.

i. EFFECTIVE DATE – for the Master Agreement 2003 is the date that the last signature is affixed hereto, to supercede and replace Master Agreement 2000.